



Linda S. Adams
Agency Secretary

California Regional Water Quality Control Board North Coast Region

William R. Massey, Chairman

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Arnold
Schwarzenegger
Governor

September 6, 2006

Mr. Kevin Church
CDOT -Eureka
1656 Union Street
Eureka, CA 95501

Dear Mr. Church:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Highway 101 - Smith River Left Turn Lane and Shoulder Widening Project

File: CDOT – Hwy 101, Smith River Left Turn Lane and Shoulder Widening
WDID No. 1A06050WNDN

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341), in response to your request, on behalf of the California Department of Transportation (applicant), for Water Quality Certification for activities related to the Highway 101 widening project near the town of Smith River in Del Norte County. On April 26, 2006, the Regional Water Board received your application and a \$1,688.00 processing fee. On July 31, 2006, we deemed the application complete and posted information describing the project on the Regional Water Board's website for a 21-day public review and comment period. We did not receive any public comments on this project.

Project Description: The project area extends from Post Mile 43.6 to Post Mile 45.9, between the town of Smith River and the Oregon border. The existing highway in the project area is a two-lane, two-way conventional highway with less than two feet of paved shoulder on each side. The purpose of the project is to provide safety improvements to reduce the number and severity of collisions within the project limits. The project involves widening the highway through the project area to add a 14 foot wide two-way left turn lane, and to increase the width of the paved shoulder to 8 feet in most areas.

Runoff from the existing highway flows into drainage channels and wetlands that parallel both sides of the highway. Portions of

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the drainage features within the project limits have been delineated as jurisdictional wetlands and other waters of the United States. The drainages and wetlands that will be filled to accommodate the wider highway will be replaced with similar drainage features approximately seven to forty feet farther to the east. The project will also result in minor modifications to the inlets and outlets of the culverts on Lopez Creek and three unnamed drainages. To compensate for the permanent and temporary impacts to waters of the United States, impacted drainage features will be replaced along the new highway alignment. The project is scheduled to begin in June 2007. The project is expected to take three years to complete.

Receiving Waters:	Lopez Creek, roadside wetlands, and unnamed tributaries to the Pacific Ocean in the Winchuck River Hydrologic Unit No. 101.00
Latitude/Longitude:	41.970N/124.204W
Filled or Excavated Area:	Area Temporarily Impacted: 0.03 acre of streambank Area Permanently Impacted: 0.3 acre of wetland and 0.03 acre of drainage channel
Federal Permit:	U.S. Army Corps of Engineers Nationwide Permits No. 14 and 33
Compensatory Mitigation:	Compensatory mitigation for permanent impacts to waters of the United States, including 0.3 acre of jurisdictional wetlands, shall include creation of at least 0.45 acre of jurisdictional wetlands along the east side of the new highway alignment.
Noncompensatory Mitigation:	Noncompensatory mitigation for this project includes the use of Best Management Practices for sediment and turbidity control and for heavy equipment operation near waterways. The applicant has applied for a Lake or Streambed Alteration Agreement (1600 Permit) from the California Department of Fish and Game.
CEQA Compliance:	The California Department of Transportation, as the lead agency for CEQA, approved a Mitigated Negative Declaration (SCH# 2005072030) for this project on September 19, 2005.
Standard Conditions:	Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions: Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The applicant shall notify Regional Water Board staff in writing at least five working days (working days are Monday – Friday) prior to the commencement of the project, with details regarding the schedule of operations, to allow staff the opportunity to be present onsite and to answer any public inquiries that may arise regarding the project.
- 2) A copy of this permit must be provided to all contractors and subcontractors conducting work on this project, and a copy must be in their possession at the work site. It is the applicant's responsibility to ensure that the contractor and all subcontractors are provided a copy of this permit.
- 3) All activities and Best Management Practices shall be implemented according to the submitted application and the conditions in this Water Quality Certification.
- 4) Adequate Best Management Practices for sediment and turbidity control shall be implemented and in place during and after construction.
- 5) A copy of the Storm Water Pollution Prevention Plan shall be submitted to the Regional Water Board at least 30 days prior

to the start of any soil disturbing activities or other activities that could affect water quality.

- 6) Construction activities in wetlands and streams shall only be conducted between June 15 and October 15 each year.
- 7) Compensatory mitigation shall result in the creation of at least 0.45 acre of jurisdictional wetlands, in order for the compensatory wetland mitigation project to be considered successful and complete.
- 8) Compensatory mitigation shall result in the creation of at least 0.45 acre of jurisdictional wetlands. Monitoring and maintenance of the compensatory mitigation project shall be implemented as described in the Del Norte 101 Left-Turn and Shoulder Widening Habitat Mitigation and Monitoring Proposal submitted with the application and the conditions in this Water Quality Certification. Monitoring reports shall be submitted to the Regional Water Board by December 31st each year, starting in 2008 and continuing until 2013 or longer to demonstrate that 0.45 acre of jurisdictional wetlands have been created by the mitigation project.
- 9) Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment, which leaks any substance that may impact water quality. If, at any time, an unauthorized discharge to surface waters occurs from fueling, lubrication, maintenance, storage or staging activities, the project shall cease immediately and Regional Water Board staff shall be notified promptly.
- 10) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. If, at any time, an unauthorized discharge of debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or

associated activity of whatever nature to surface waters occurs, or any water quality problem arises, the project shall cease immediately and Regional Water Board staff shall be notified promptly.

- 11) All concrete wastes and water that contacts fresh concrete must be fully contained and disposed of properly in order to prevent any discharge to surface water or ground water.
- 12) When operations are completed, any excess material or debris shall be removed from the work area and disposed of properly. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
- 13) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).
- 14) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 15) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the applicant, the applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.
- 16) To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the Highway 101 - Smith River Left Turn Lane and Shoulder Widening Project, (Facility No. 1A06050WNDN) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and

Implementation Plans”), 306 (“National Standards of Performance”), and 307 (“Toxic and Pretreatment Effluent Standards”) of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration:

The authorization of this certification for any dredge and fill activities expires on September 6, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Dean Prat of our staff at (707) 576-2801 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman
Executive Officer

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cc: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street, San Francisco, CA 94599
U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502